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IN THE

Supreme Court of the United States

OCTOBER TERM, 1966

No. 471

DUNCAN MILLER,

Petitioner,

v.

STEWART L. UDALL,
Secretary of the Interior,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

PETITION FOR REHEARING

DUNCAN MILLER
P.O. Box 728, Lake Shore Court
Boulder City, Nevada
Petitioner, Pro se

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PETITION FOR REHEARING

Petitioner submits the following as a basis for a rehearing:

In the petition and in the reply to the memorandum of the respondent in opposition, the principle issue was conclusively shown to be a fact. This fact is that the statutory rights, established by the Bureau of Land Management, to have oil and gas leases issued, were abrogated without *ANY* notice or opportunity to be heard.

In *National Broadcasting Co. v. FCC*, 362 F.2d 916 (D.C. Cir. 1966), at page 953, the Court discoursed, the question of the right to a hearing *confirming* the grave injustice done to this petitioner:

> ". . . of . . . cardinal importance [is] the right to be heard where *one's interests* are acutely affected by the actions of an *administrative agency*. It is fundamentally *abhorrent to our system of jurisprudence* to deny a hearing to a litigant where justice and law require that a hearing be held. The court is certainly in agreement with this principle and recognizes it as one of the *essential elements of our form of government*. Having recognized the importance of the right to be heard, the question for our purposes, becomes: Has [petitioner] been accorded this right . . ." (Emphasis supplied)

Over and over again in the proceedings there has been emphasized and reemphasized, that there was no hearing for petitioner in the administrative proceedings, and there was *no hearing* in the district court in the action that he filed, which should have been *adjudicative of the fact* that there was *no hearing* administratively. Clearly there has been a round robin of injustice heretofore. Petitioner believes that this Court should ameliorate this injustice.

In 64 I.D. at page 336, the respondent said:

> "The Ingersoll Case, supra, although not directly applicable to this case, recognizes a *salient principle of law* that this Department [of the Interior] has been *scrupulous to follow*, and that is, that no one should be deprived of his rights without adequate *notice*." (Emphasis supplied)

Pursuant to the words of respondent above, such a callous disregard of a citizen's rights under the law must have been through administrative inadvertence; or, should be recognized as a highly shocking breakdown in the governmental processes and procedures.

Most important, disregarding the rights of petitioner per se, this Court should grant a rehearing because as the history of this case shows, there was a strange connection

with the national tragedy in Dallas. By following the "due process" rule of law in this matter, something further of interest may be learned of the tragedy. Therefore, references are made to the brief of Appellant in No. 19,934 in the court below. Petitioner quotes from joint appendix, page 6, of said brief as follows:

> "Refocusing on the other post office box, 1161, Dallas, Texas, was it used horrendously in violation of postal regulations and also the fraud section? It will be noted that plaintiff's said document was received by the Department early in 1962. Suppose the wheels of justice had properly started moving moderately fast in the direction of Dallas to institute some action in the matter of Box 1161. They would have reached Dallas in the essence of time. It is possible (and there is no reason why) if the Dallas post office had been apprised or put on guard, that such *illegal post office box collusive use* and activities *at Dallas* would have been *scrutinized* with a resultant screening so that *Box 2905 at Dallas would never have received any weapons* and the proper authorities would have been alerted. The foregoing HYPOTHESIS is a fantastically logical one which points to the question 'Why?' (Emphasis supplied)
>
> "Further strange coincidences are: the defendant's officer interviewing some of the collusive lease applicants utilizing the post office box address at Dallas was named "Kennedy"; and even stranger, the same oil man who was identified as the principal in the use of the box for the collusive scheme is the same one, apparently, who attempted or purchased the alleged *assassin's weapon* from the Oswald estate received at the *other post office box in Dallas.*" (Emphasis supplied)

It is very curious and paradoxical indeed! when the facts were: that the Post Office Box of Oswald was used for the receipt of Communist literature, but was allowed to be used for the purpose of transmittal of the two different guns to the dummy name of Hidell, although it was apparently Oswald himself who picked up the guns; yet, what has been labeled "mail checks" by the post office author-

ities that have received much publicity and complaints by citizens, were commonplace. Strangely the most publicized "mail check" instance was that of the former prosecuting attorney in the case wherein two communist spies were convicted of espionage, and subsequently executed.

The instant administrative decision of the Department came out, or rather was promulgated, on a date, that coincided within a few days of the approximate date of the delivery of said guns. That is said "decision" which dealt with the use of another P. O. Box at Dallas for the collusive, dummy land scheme.[1]

If during the preparation of the administrative decision there had been *liaison with the post office in Dallas*, keeping in mind that it was inferred administratively by the petitioner that there was a horrendous violation of the postal laws, then the chances certainly would have been very good, that this liaison would have caused the Dallas Post Office to have taken such action as would have aborted the gun deliveries with a possible consequent nipping in the bud of the alleged nefarious plot.

Respectfully submitted,

Duncan Miller

Petitioner, Pro se

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[1] Respondent has ignored interrogatories pertaining to the circumstances of these matters. A motion addressed to the Hon. Chief Justice for an order requiring the respondent to make response to the said interrogatories was filed prior to filing this petition for a rehearing. Petitioner now notes that it was somewhat inadequate in background, therefore he is submitting a copy of said Motion and Memorandum, in the appendix, and wishes to make it a part of the overall reasons in support of his petition for a rehearing.

I hereby certify that the foregoing petition is presented in good faith, and not for delay.

Duncan Miller

APPENDIX

* * *

MOTION ADDRESSED TO THE HONORABLE CHIEF JUSTICE

Petitioner moves that the Honorable Chief Justice Earl Warren, order the respondent to make response to interrogatories, served on respondent in the proceedings in the Appellate Court.

OBJECT AND GROUNDS FOR THE MOTION

There has been shown in the proceedings in this case a strange relationship with the National Tragedy in Dallas, Texas. Therefore, it is clearly in the public interest that any facts or further coincidences that may be brought out, should be.

A memorandum setting forth the interrogatories in question as well as a brief statement of points with argument, is attached hereto, in support of the motion.

Respectfully submitted,

Duncan Miller,
Petitioner, pro se

App. 2

MEMORANDUM IN SUPPORT OF PETITIONER'S MOTION TO REQUIRE THE RESPONDENT TO RESPOND TO SPECIAL INTERROGATORIES

REPRODUCTION OF: PETITIONER'S LETTER TO RESPONDENT

IN THE MATTER OF CASE NO. 19,934
COURT OF APPEALS (D. C. CIR.) NOW
BEFORE THE SUPREME COURT ON
PETITION #471

Sept. 2, 1966

Hon. Stewart L. Udall
Secretary U. S. Department of the Interior
Washington 25, D. C.

Honorable Sir:

The above captioned case concerns fraud in connection with the mineral leasing "Act" and laws of the United States, specifically oil and gas leases in Alaska, as uncovered by the Bureau of Land Management* after I pointed out the indications thereof.

Subsequently, strange coincidences in the case, with the National Tragedy in Dallas, have come to light, then pertaining thereto, a "Special request for admissions of facts and interrogatories was filed in the Appellate Court with copy to your counsel, who had the case in the District Court, but there was no response.

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* The Bureau clearly recognized the connection between Texas and Alaska, since it distributed copies of its decision to the Hon. Ernest Gruening - U. S. Senate and Hon. John G. Tower, U. S. Senate.

CC: Hon. Sen. Gruening
Hon. Sen. Tower
Hon. Thurgood Marshall-Solicitor General

The clerk of the Appellate Court by letter dated, March 29, 1966, stated, "There is no provision in the rules of this Court for filing such a special request." However, no legal authority was cited, as to why the document was not proper, pursuant to the discovery rules of F.R.C.P.

In any event, it is suggested that legal technicalities be waived, since, when there is a connection between Alaska public land oil frauds and the National Tragedy in Dallas, surely there must be no suppression of any facts that may be brought out.

It is trusted that this letter will be received and acted upon in the public interest,

Respectfully submitted,

[Petitioner]

PETITIONER has received no reply to the above letter as of this date.

REPRODUCTION OF:
PETITIONER'S SPECIAL REQUEST
FOR ADMISSION OF FACTS AND INTERROGATORIES
SERVED ON RESPONDENT
MARCH 26, 1966

TO THE HONORABLE THOS. L. McKEVITT,
Counsel for the Defendant, (below):

Appellant is submitting a special request for several admissions and interrogatories. They are termed "special" because they may be beyond the scope of the "Federal Rules of Civil Procedure" at this stage in the proceedings; nevertheless, it is trusted that the defendant will answer responsively in the public interest to the following:

1. (a) With respect to the post office boxes in Dallas referred to in the Motion to Set Aside the Judgment of plaintiff below, are there any further coincidences or other circumstances known having to do with these said boxes along the lines as noted in the points and authorities of said Motion?

(b) Is there any statement out of context, inaccurate, misleading in said document (Motion with points and authorities) as to either of said post office boxes or otherwise? If so, please specify.

(c) Is there anything further that the Court should be shown in the historical, broad premises of this unprecedented and bizarre case?

2. (a) To what extent have defendant's officers collaborated or had liaison with the Post Office Department regarding the collusive or fraudulent use of such post office boxes with respect to the filing of applications and leases, etc., under the public land and mineral laws?

(b) It is true that the use of Post Office boxes as shown would be a violation of Title 18, U. S. Code, Section 1001 and 1341.

Respectfully submitted,

[Petitioner]

Certificate of Service, etc. OMITTED.

PETITIONER has received no response from respondent, in connection with the foregoing.

REPRODUCTION OF: PETITIONER'S LETTER OF TRANSMITTAL TO THE CLERK OF THE COURT

RE: Case No. 19,934

March 26, 1966

The Honorable Nathan J. Paulson, Clerk
United States Court of Appeals
For the District of Columbia Circuit

Sir:

I am transmitting a document containing interrogatories to the appellee's counsel in the District Court.

Because of the strange and historical nature of the circumstances involved in this case it is felt that said document should be entertained so that the Court may be more fully knowledgeable in the premises.

Very truly yours,

[Petitioner]

ARGUMENT

PETITIONER bases this motion on the strength of the last paragraph of the quoted letter. The strange circumstances and facts that petitioner pointed to in the proceedings in the District and the Appellate Courts, as plaintiff and appellant respectively, are such that it will be truly in the public interest to fully explore these matters presented.

In *King vs. U. S.*, 364 F.2d 235 (1966), the Fifth Circuit dealt with the question of the Oswald guns on page 236, the Court seems to agree that Oswald was in violation of said Sec. 1001, Title 18. However, as far as Petitioner can determine there is no mention of the mail fraud section, or the P. O. Box, to which the guns were delivered

at Dallas. Also, it would appear the Court was unaware of the connection of its appellant with the other Dallas Post Office Box. Some six or eight months back the radio stations throughout the country broadcast a short 2 or 3 minute excerpt from an English play dealing with the tragedy, the importance of the P. O. Box at Dallas was emphasized.

In *Rosenblatt v. Baer*, 86 S. Ct. 669 (1966), this Court said:

> "Criticism of those responsible for government operations must be free, lest criticism of government itself be penalized."

Understandably petitioner is critical. It was he alone who uncovered the oil lease Alaska Land Fraud Scheme, and also the strange connection with the National Tragedy at Dallas.

Respectfully submitted,

Duncan Miller
Petitioner pro se

CERTIFICATE OF SERVICE

Petitioner certifies that copy of this Motion and Memorandum, were mailed to the Honorable Thurgood Marshall, Solicitor General, Department of Justice, Washington, D. C. on this _____ day of November, 1966.

Duncan Miller